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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,915	08/24/2001	Stepan Sokolov	SUN1P840/P6721	3300

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EXAMINER

KENDALL, CHUCK O

ART UNIT PAPER NUMBER

2192

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/938,915

Applicant(s)

SOKOLOV, STEPAN

Examiner

Chuck Kendall

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 4 - 9, and 21 - 28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4 - 9, and 21 - 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>01/13/2005</u> | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is in response to the application filed 08/24/01.
2. Claims 2,3, and 10 – 20 have been cancelled also claims 21 – 28 have been added. Claims 1,4 – 9, and 21 – 28 are now pending.

### ***Double Patenting***

3. Claims 1, 4 – 9, and 21 – 28 of this application conflict with claims 2 – 9 and 17 of Sokolov Application No. US 2003/0041320 A1. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

Claims 1,4 – 9, and 21 – 28 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2 – 9 and 17 of copending Application No. US 2003/0041320 A1 in view of Grove. USPN 6205578.

This is a provisional obviousness-type double patenting rejection.

See table for mapping of claims between Applicant's claims and Copending Application.

Applicants disclosure 09/938,915 Sokolov	Co-Pending Application Sokolov US 2003/0041320 A1
In claims 1, 21 and 25 (independent claims):  wherein said macro virtual machine loop instruction represents a conventional sequence of Bytecode instructions in a programming loop that can be executed by said virtual machine, said conventional sequence of Byte code instructions including a conventional conditional flow control Byte code;	In claim 2:  A Java macro instruction as recited in claim 1, wherein said sequence is a conventional Java Bytecode sequence which includes a conventional conditional flow control instruction.
In claims 1 and 21:  macro instruction is a single virtual machine instruction that can effectively replace said conventional sequence of Bytecode instructions	In claim 17:  A computer readable media as recited in claim 16, wherein said Java macro instruction is generated only when said virtual machine determines that said Java macro instruction should replace said sequence.
In claim 1:  wherein, said macro machine loop instruction is generated and loaded into said virtual machine instead of said	In claim 3:  A Java macro instruction as recited in claim 1, wherein said Java macro instruction is generated

conventional sequence of Bytecode instructions during the Bytecode verification prior to execution time	during the Java Bytecode verification phase.
Claims 4, 22 and 26.	Same as claim 4.
Claims 5, 23 and 27	Same as claim 5.
Claims 6.	Same as claim 6.
Claim 7.	Same as claim 7.
Claim 8, 24 and 28.	Same as claim 8.
Claim 9.	Same as claim 9.

***Allowable Subject Matter***

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not teach or fairly suggest at least:

In claims 1,21, and 25.

"...macro instruction is a single virtual machine instruction that can effectively replace said conventional sequence of Bytecode instructions,".

***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuck Kendall whose telephone number is 571-272-3698. The examiner can normally be reached on 10:00 am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on 571-272-3695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**TUAN DAM**  
**SUPERVISORY PATENT EXAMINER**